

### **Remarks**

This Amendment is in response to the Office Action dated **April 15, 2010**. Claims 38-41 and 43-52 are pending in this application. Claims 41 and 43 have been withdrawn from consideration. The Office Action rejected claims 38-40, 44-49, 51 and 52 under 35 USC § 102 over Moriuchi (US 5879381); and rejected claim 50 under 35 USC § 103 over Moriuchi.

By this Amendment, claims 38, 40, 41 and 43-46 are amended. Specifically, independent claim 38 is amended. Dependent claims 40, 41, 43 and 44 are amended in accordance with the amendment to claim 38. Independent claims 45 and 46 are also amended. Support for the amendments can be found at least in Figure 5a. Applicants reserve the right to prosecute any cancelled subject matter in a subsequent patent application claiming priority to the immediate application. Reconsideration in view of the above amendments and the following remarks is requested.

### **Potential Interference**

Claim 38-45 were initially copied from Lee (US 2003/0055485) in an attempt to provoke an interference. The Lee application has since been abandoned, and independent claims 38 and 45 are amended herein.

Claims 46-52 were copied from a Lee continuation application (US 2008/0281404) in an attempt to provoke an interference. The Lee continuation has not yet been examined. Claim 46 is amended herein; however, Applicants still intend for claims 46-52 to provoke an interference. To the extent there is patentable subject matter in the Lee continuation, Applicants believe that claims 46-52 as amended herein can still provoke an interference if Lee reaches patentable claims.

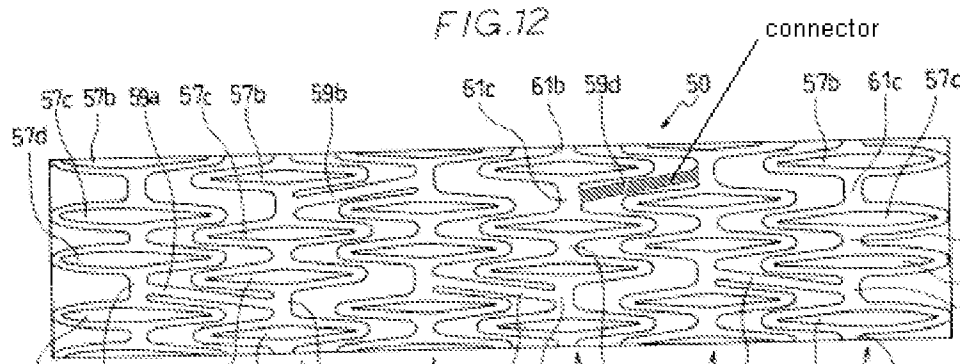
### **Claim Rejections**

The Office Action rejected claims 38-40, 44-49, 51 and 52 under 35 USC § 102 over Moriuchi and rejected claim 50 under 35 USC § 103 over Moriuchi. Amendments to independent claims 38, 45 and 46 have rendered the rejections moot.

Independent Claim 38

Claim 38 recites, “the connecting struts extending between and connected to the apex portions that overlap one another.”

The rejection cites to Moriuchi Figure 12. See Office Action at page 3. The connector in the Moriuchi stent does not connect to any overlapping apex portions. See e.g. Moriuchi Figure 12, provided below marked to show a connector.



Thus, Moriuchi does not teach connecting struts that are “connected to the apex portions that overlap one another,” as recited in claim 38, and does not anticipate claim 38 or any claim dependent therefrom.

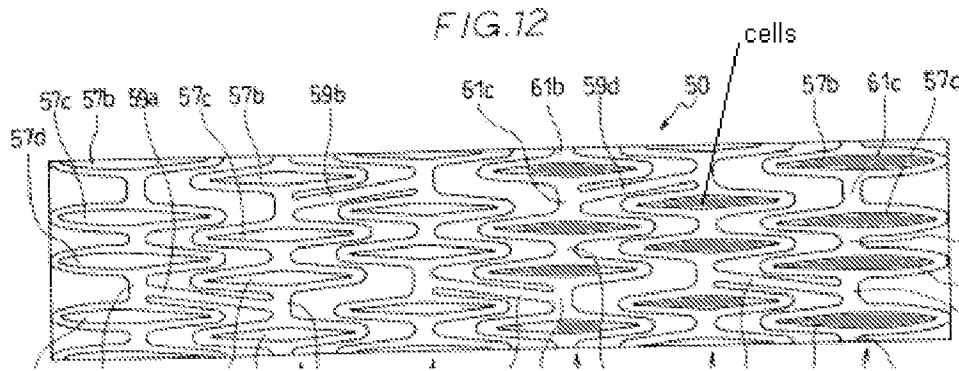
Applicants request withdrawal of the rejection of claims 38-40 and 44 under 35 USC § 102 over Moriuchi.

Independent Claim 45

Claim 45 recites, “each cell of the stent partially defined by a connecting strut.”

The Moriuchi stent does not meet the limitations of claim 45 because several cells are defined entirely by the annular units 58. Thus, the Moriuchi stent includes several cells that are not “partially defined by a connecting strut.”

A marked version of Moriuchi Figure 12 is provided below with shading to indicate multiple cells that do not meet the limitations of claim 45.



Therefore, Moriuchi does not anticipate claim 45, and Applicants request withdrawal of the rejection of claim 45 under 35 USC § 102.

#### Independent Claim 46

Claim 46 recites, “the circumferential connecting struts extending between and connected to the apex portions that extend past each other.”

The limitation requiring connecting struts “connected to the apex portions that extend past each other” is discussed above with respect to independent claim 38. Moriuchi does not disclose or suggest a stent that meets these limitations, and does not anticipate claim 46 or any claim dependent therefrom.

Applicants request withdrawal of the rejection of claims 46-49, 51 and 52 under 35 USC § 102 over Moriuchi.

With respect to the rejection under 35 USC § 103, even if the modification proposed by the Examiner were made, the resulting device would not meet the limitations of dependent claim 50 because it would not have the connecting struts required by independent claim 46. Applicants request withdrawal of the rejection of claim 50 under 35 USC § 103 over Moriuchi.

**Conclusion**

Based on at least the foregoing amendments and remarks, Applicants respectfully submit this application is in condition for allowance. Favorable consideration and prompt allowance of claims 38-41 and 43-52 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the telephone number listed below.

Respectfully submitted,

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